

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA  
14

15 UNITED STATES OF AMERICA, )  
16 Plaintiff, ) 2:09-cr-222-HDM-PAL  
17 vs. ) ORDER  
18 ANTHONY SWANSON, )  
19 Defendant. )  
20 \_\_\_\_\_ )

21 Before the court is the defendant's motion for appointment of  
22 counsel (#176).

23 There is no constitutional right to appointed counsel for  
24 discretionary, post-conviction appeals. *Pennsylvania v. Finley*,  
25 481 U.S. 551, 555 (1987); *Sanchez v. United States*, 50 F.3d 1448,  
26 1456 (9th Cir. 1995). The decision to appoint counsel is generally  
27 discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.  
28 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730

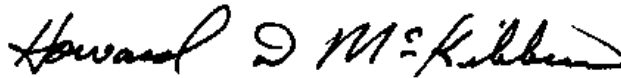
1 F.2d 1228, 1234 (9th Cir. 1984), *cert. denied*, 469 U.S. 838 (1984).  
2 However, the court must appoint counsel where the complexities of  
3 the case are such that denial of counsel would amount to a denial  
4 of due process. *Chaney*, 801 F.2d at 1196.

5 Defendant contends that the court should appoint counsel  
6 because the issues in this case are complex and he is unable to  
7 adequately present the claims without assistance of counsel. After  
8 reviewing the application, the court finds that, at this time, the  
9 issues raised are not complex. Further, the defendant has resources  
10 available to him so that he may adequately present his claims.

11 It is therefore ordered that the defendant's *ex parte* motion  
12 for appointment of counsel (#176) is denied without prejudice to  
13 renew.

14  
15 **IT IS SO ORDERED.**

16 DATED: This 21st day of February, 2013.

17 

18 UNITED STATES DISTRICT JUDGE  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28